

June 3, 2004

ENERGY & ENVIRONMENT
COMMITTEE
REPORT NO. 8

ALL MEMBERS PRESENT.

1. RESOLVED, that the following items are hereby received and filed.
 - a. Item Page -2003 (Comm. 18M-2)
ASSEMBLYMAN SMITH: Copy of Letter to ECWA Re: Acquisition of City of Buffalo Water System.
(5-0)
 - b. Item Page -2004 (Comm. 9E-14)
COUNTY EXECUTIVE: Buffalo/Erie County Parks Consolidation Proposal.
(5-0)
 - c. Item Page -2004 (Comm. 9E-75)
COUNTY EXECUTIVE: Rental Payments Related to a Non-Drilling Oil & Gas Lease on Erie County Forestry Lands in Town of Sardinia.
(5-0)
 - d. Item Page -2004 (Comm. 9M-10)
BUFFALO COMMON COUNCIL: Certified Resolution Re: Request to Amend the NYS Public Authorities Law.
(5-0)
 - e. Item Page -2004 (Comm. 10M-1)
TOWN OF AMHERST: Deer Vehicle Accident Management Plan Update.
(5-0)
 - f. Item Page -2004 (Comm. 10M-2)
ERIE COUNTY WATER AUTHORITY: Communication to Erie County Comptroller Re: Auto Accident.
(5-0)
 - g. Item Page -2004 (Comm. 11E-6)
HOLT: Copy of Letter to Minority Leader Re: Appointment to Erie County Water Authority.
(5-0)
 - h. Item Page -2004 (Comm. 11M-7)
NYS COMPTROLLER: Approval of Application for Permission to Increase Facilities in ECSD No. 5.
(5-0)

- i. Item Page -2004 (Comm. 11M-8)
NYS COMPTROLLER: Copy of Application by Town of Aurora for Extension to Water District No. 10.
 (5-0)

2. Item Page -2004 **AS AMENDED**
 (Comm. 9E-53)
COUNTY EXECUTIVE

WHEREAS, the Erie County Department of Environment and Planning has received the following lowest responsible bids for the Erie County Sewer District Number 1, Union Road Pumping Station and Force Main Project, Contract 22PS "A" General/Mechanical, Contract 22PS "C" Plumbing, and Contract 22PS "D" Electrical and Instrumentation on May 4, 2004.

<u>Contract</u>	<u>Lowest Responsible Bidder</u>	<u>Amount Bid</u>
Contract 22 PS "A" General/Mechanical	Donald J. Braasch Construction, Inc. 1661 Lakeview Road Lakeview, New York 14085	\$991,200.00
Contract 22PS "C" Plumbing	MKS Plumbing Corporation 19 Ransier Drive West Seneca, New York 14224	\$ 25,680.00
Contract 22PS "D" Electrical & Instrumentation	O'Connell Electric 830 Phillips Road Victor, New York 14564	\$138,294.00

WHEREAS, the aforementioned lowest responsible bidders have been recognized as successfully performing similar work in Erie County.

NOW, THEREFORE, BE IT

RESOLVED, that the Union Road Pump Station and Force Main Project, Contract 22PS - "A" General/Mechanical, Contract 22PS - "C" Plumbing and Contract 22PS - "D" Electrical and Instrumentation be awarded to the lowest responsible bidders as follows:

<u>Contract</u>	<u>Lowest Responsible Bidder</u>	<u>Amount Bid</u>
Contract 22 PS "A" General/Mechanical	Donald J. Braasch Construction, Inc. 1661 Lakeview Road Lakeview, New York 14085	\$991,200.00
Contract 22PS "C" Plumbing	MKS Plumbing Corporation 19 Ransier Drive West Seneca, New York 14224	\$ 25,680.00
Contract 22PS "D" Electrical & Instrumentation	O'Connell Electric 830 Phillips Road Victor, New York 14564	\$138,294.00

and be it further

RESOLVED, that the County Executive be, and hereby is, authorized to execute the Contracts with the aforementioned lowest responsible bidders subject to approval as to from by the County Attorney and certification of availability of funds from the Project Fund Balance or an authorized advance from the General Fund by the Comptroller's Office; and be it further

RESOLVED, that the Comptroller is authorized and directed to allocate \$1,155,174.00 from Sewer Capital, Erie County Sewer District No. 1, Account C. 00032 (430 -694), for Contract 22PS - "A", Contract 22PS - "C", and Contract 22PS - "D"; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send one certified copy of this Resolution to County Executive Joel Giambra, two (2) certified copies to Charles J. Alessi, P.E., Department of Environment and Planning, one certified copy to John S. Rizzo, Deputy Comptroller, Erie County Comptroller Office and one certified copy to Gregory Dudek, Assistant County Attorney.

(5-0)

3. Item Page -2004 (Comm. 10E-21)

COUNTY EXECUTIVE

WHEREAS, in Communication Number 12E-20 (C), dated July 5, 2001, authorization was received to enter into contracts with two Performance Contracting firms, and

WHEREAS, the Commissioner of Public Works has assigned several of its facilities to each of the contracted firms, and

WHEREAS, the first step in a Performance Contract is to perform a preliminary energy audit, and

WHEREAS, if cost-effective Energy Conservation Measures are found at a facility, and a construction contract is progressed, the charge for the preliminary energy audit is included in the construction contract, and

WHEREAS, if reasonable Energy Conservation Measures are found at a facility, and a construction contract is not progressed by the County, the Performance Contractor then expects and deserves payment for the preliminary energy audit,

NOW, THEREFORE, BE IT

RESOLVED, that the Commissioner of Public Works is authorized to issue a Supplemental Agreement to the County's Performance Contractors to perform preliminary energy audits providing that a clause included in the contract states that no specific payment will be made for this service provided cost-effective Energy Conservation Measures are found at a facility, and a construction contract is progressed, and be it further

RESOLVED, that should the Performance Contractor perform a preliminary energy audit and cost-effective Energy Conservation Measures are found at a facility, and a construction contract is not progressed by the County, the cost of this preliminary energy audit will be paid from the 2003 Energy Conservation Measures Capital Fund 410, Project 405, and be it further

RESOLVED, that two certified copies of this resolution shall be forwarded to the Commissioner of Public Works, and one each to the County Executive, the Director of Budget and Management and the Office of the Comptroller.
(5-0)

4. Item Page -2004 (Comm. 11E-12)

COMPTROLLER

RESOLUTION NO. _____ -2004

BOND RESOLUTION DATED _____, 2004

BOND RESOLUTION AUTHORIZING THE ISSUANCE OF \$3,000,000 BONDS OF THE COUNTY OF ERIE, OR SO MUCH THEREOF AS MAYBE NECESSARY, TO FINANCE THE COST OF AN INCREASE AND IMPROVEMENT OF THE FACILITIES OF ERIE COUNTY SEWER DISTRICT NO. 5; STATING THE ESTIMATED MAXIMUM COST THEREOF IS \$3,000,000; STATING THE PLAN OF FINANCING SAID COST INCLUDES THE ISSUANCE OF \$3,000,000 BONDS HEREIN AUTHORIZED; PROVIDING FOR A TAX TO PAY THE PRINCIPAL OF AND INTEREST ON SAID BONDS; AND PROVIDING FOR REIMBURSEMENT BY ERIE COUNTY SEWER DISTRICT NO. 5 TO SAID COUNTY.

(Introduced) _____, 2004

(Adopted) _____, 2004

WHEREAS, pursuant to proceedings had and taken in accordance with the provisions of Article 5A of the County Law and more particularly a resolution of this County Legislature dated December 11, 2003, and the order of the State Comptroller dated May 11, 2004, an increase and improvement of facilities for Sewer District No.5 has been approved at a estimated maximum cost of \$3,000,000, and

WHEREAS, it is now desired to provide for the financing of said costs, NOW THEREFORE BE IT

RESOLVED BY THE COUNTY LEGISLATURE OF THE COUNTY OF ERIE, NEW YORK (by the affirmative vote of not less than two-thirds of the voting strength of said Legislature), AS FOLLOWS:

Section 1. Pursuant to the provisions of the Local Finance Law, constituting I Chapter 33-a of the Consolidated Laws of the State of New York, as amended (the "Law"), and to the provisions of other laws applicable thereto, \$3,000,000 bonds of the County, or so much thereof as may be necessary, are hereby authorized to be issued to finance the cost of an increase and improvement of facilities for Erie County Sewer District No. 5, all as more fully described in the report and estimate of cost accepted and adopted by the Board of Managers of said District on October 9, 2003, and filed with the County Legislature pursuant to Section 268 of the County Law. The estimated maximum cost of said specific object or purpose, including preliminary costs and costs incidental thereto and to the financing thereof, is \$3,000,000. The plan of financing includes the issuance of \$3,000,000 bonds herein authorized and any bond anticipation notes issued in anticipation of the sale of such bonds, and the levy of a tax to pay the principal of and interest on said bonds and notes, the said principal and interest to be reimbursed to the County by assessment against a benefited area which consists of the entire areas of Erie County Sewer District No. 5.

Section 2. The period of probable usefulness for the specific objects or purposes for which said \$3,000,000 bonds herein authorized to be issued, within the limitations of Section 11.00 a. 4. of the Law, is forty (40) years.

Section 3. Current funds are not required to be provided as a down payment prior to the issuance of the \$3,000,000 bonds authorized herein, or any bond anticipation notes issued in anticipation thereof, pursuant to Section 107.00 d. 3. of said Law.

Section 4. The County intends to finance, and the Comptroller of the County hereby authorized to advance such amounts as are necessary to pay the costs of the object or purpose described in Section 1 hereof prior to the issuance of the bonds or bond anticipation notes authorized out of any available funds of the County, on an interim basis, which amounts I are reasonably expected to be reimbursed with the proceeds of debt to be incurred by the County, pursuant to this Resolution, in the maximum amount of bonds herein authorized. This Resolution is a declaration of official intent adopted pursuant to the requirements of Treasury Regulation Section 1.150-2.

Section 5. Subject to the provisions of this Resolution and of the Law, and pursuant to the provisions of §21.00 relative to the authorization of the issuance of bonds with substantially level or declining annual debt service, §30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals thereof, and of §§50.00, 56.00 to 60.00 and 168.00 of said Law,

the powers and duties of the County Legislature relative to authorizing the issuance of any notes in anticipation of the sale of the respective amounts of bonds herein authorized, or the renewals thereof, relative to providing for substantially level or declining annual debt service, relative to prescribing the terms, form and contents and as to the sale and issuance of the respective amounts of bonds herein authorized, and of any notes issued in anticipation of the sale of said bonds or the renewals of said notes, and relative to executing agreements for credit enhancement, are hereby delegated to the Comptroller of the County, as the chief fiscal officer of the County.

Section 6. Each of the bonds authorized by this Resolution and any bond anticipation notes issued in anticipation of the sale thereof shall contain the recital of validity prescribed by Section 52.00 of said Local Finance Law and said bonds and any notes issued in anticipation of said bonds shall be general obligations of the County of Erie, payable as to both principal and interest by general tax upon all the taxable real property within the County without limitation as to rate or amount. The faith and credit of the County are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds and any notes issued in anticipation of the sale of said bonds or the renewals of said notes, and provision shall be made annually in the budgets of the County by appropriation for (a) the amortization and redemption of the notes and bonds to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 7. The validity of the bonds authorized by this Resolution and of any notes issued in anticipation of the sale of said bonds, may be contested only if:

(a) such obligations are authorized for an object or purpose for which the County is not authorized to expend money, or

(b) the provisions of law which should be complied with at the date of the publication of this Resolution, or a summary hereof, are not substantially complied with, and an action, suit or proceeding contesting such validity, is commenced within twenty days after the date of such publication, or

(c) such obligations are authorized in violation of the provisions of the Constitution.

Section 8. This Resolution shall take effect immediately upon approval by the County Executive.

(5-0)

AS AMENDED

5. Item Page -2004 (Intro. 11-4)

MINORITY CAUCUS, DUSZA, MARINELLI & KUWIK

WHEREAS, as of 2000, there were 343 agricultural districts in existence throughout New York State, which were comprised of approximately 21,758 farms and 8.58 million acres of land, and

WHEREAS, these districts were all voluntarily formed by agricultural landowners and adopted by county legislative bodies following state certification, and

WHEREAS, agricultural landowners who are part of an agricultural district have the opportunity to receive real property assessments based on the value of their land for agricultural production as well as other beneficial programs and incentives, and

WHEREAS, effective September 17, 2003, New York State Agricultural and Markets Law (AML) § 303-b made it possible for landowners of predominantly viable agricultural land in existing certified agricultural districts to request inclusion during an annual thirty-day period authorized by the county legislature, and

WHEREAS, at this time it is important that the Erie County Legislature work with the Erie County Executive and his Department of Environment and Planning to choose a thirty-day period and approve the necessary legislation to open up the agricultural districts to land owners with predominantly viable agricultural land, and

WHEREAS, once authorization is approved, landowners interested in receiving the benefits of being part of an agricultural district will submit their request to the Erie County Farmland Protection Board, which will review requests and judge whether or not a particular parcel of land consists of at least 51% viable agricultural land, and

WHEREAS, the recommendation of what agricultural land should be included will be forwarded to the Erie County Legislature for final approval after a public hearing is held to hear all residents concerns, and

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature is committed to agricultural districts and the benefits and incentives offered to agricultural landowners within those districts, and be it further

RESOLVED, that this Honorable Body seeks to work with the Erie County Executive and his Department of Environment and Planning to implement the thirty-day inclusion period for landowners with predominantly viable agricultural land, and be it further

RESOLVED, that certified copies of this resolution be forwarded to Erie County Executive Joel A. Giambra and Commissioner of Environment and Planning Laurence K. Rubin.

Fiscal Impact: None
(5-0)

RAYMOND K. DUSZA
CHAIRMAN